

Panama Canal Commission

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contracts. This requirement is applicable when the contractor, subcontractor, or individual employee is present in the Republic of Panama in connection with one or more Commission contracts for more than 90 calendar days during the relevant tax year. This description of the stated requirement is not intended, nor should it be construed, to be a legal analysis of the taxation agreement. The Commission assumes no responsibility or liability for a contractor's or individual's obligation under the taxation agreement, nor for the interpretation of such agreement. A copy of the taxation agreement will be provided to the contractor or prospective contractor upon request to the contracting officer.

(2) If clause 52.229-6 is incorporated by reference, rather than in full text, insert the note directly below the title of the clause.

(3) Include elsewhere in the body of the solicitation the following note to alert offerors that clause 52.229-6 has been supplemented. In supply and service solicitations, this note should normally be inserted in Section B following the blanks provided for offerors to insert line item prices. In construction solicitations, the note should normally be attached to Standard Form 1442 or inserted in the solicitation's Special Conditions. In small purchase acquisitions, the note is to be included in the document requesting prices or by separate attachment to the document. If a U.S. contractor wins the small purchase award, the note shall be incorporated either (i) in full text, or (ii) by reference, on the purchase order or other award document.

NOTE: Offerors' attention is directed to the note added at the end of clause 52.229-6, Taxes—Foreign Fixed-Price Contracts. The note is an advisory notice regarding possible tax obligations under certain circumstances of U.S. contractors, subcontractors, and their employees to the Government of Panama. If the circumstances appear to be applicable, offerors may obtain additional information by contacting the contracting office at the address or phone number provided elsewhere in this solicitation.

(4) If additional information regarding the taxation agreement is requested of Panama Canal Commission employees, either before or after award, the individual who receives the request shall promptly notify the contracting officer and the Office of General Counsel who shall determine, in conjunction with the Office of Execu-

tive Administration, the appropriate action to be taken.

(5) Contracting officers shall serve as the official liaison, for purposes of the taxation agreement, between offerors/contractors and the Commission. The taxation agreement provides for the classification of contractors into two categories, resident and non-resident, by representatives of the Governments of the United States and Panama according to criteria set forth in the agreement. The representative of the United States Government is the Assistant Director, Policy and Programs, Office of Executive Administration. Classifications, when confirmed by the two representatives, will be communicated to the respective contractors by the contracting officer.

[55 FR 7657, Mar. 2, 1990]

PART 3531—CONTRACT COST PRINCIPLES AND PROCEDURES

AUTHORITY: 40 U.S.C. 486(c).

Subpart 3531.2—Contracts with Commercial Organizations

3531.205-46 Travel costs.

(a) Fixed-price type contracts that provide for separate reimbursement of travel and per diem shall state that such reimbursement will not exceed rates established in applicable Federal Travel Regulations.

(b) The clause at 3552.231-70, Travel Costs, shall be included in contracts as described in paragraph (a) of this subsection.

[55 FR 7658, Mar 2, 1990]

PART 3532—CONTRACT FINANCING

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AUTHORITY: 40 U.S.C. 486(c).

SOURCE: 55 FR 7658, Mar. 2, 1990, unless otherwise noted.

3532.000 Scope of part.

This part implements and supplements FAR part 32 and provides Commission policies and procedures for contract financing and other payment matters, including—

- (a) Advance payments;
- (b) Contract debts;
- (c) Assignment of claims; and
- (d) Prompt payment implementation.

Subpart 3532.1—General

3532.111 Contract clauses.

(a)(7) The clause at 3552.232–70, Contract Payments, in solicitations and contracts for construction when the contracting officer determines that the value of materials delivered to the work site may be taken into account in preparing the progress payment estimate.

(8) The clause at 3552.232–73, Invoices, in all solicitations and contracts except small purchases. The clause or a modified version of the clause may be used in small purchases.

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Subpart 3532.4—Advance Payments

3532.402 General.

(e)(1) The Procurement Executive is responsible for approving findings and determinations supporting the use of advance payments and approving contract terms concerning advance payments. These approvals must have the concurrence of the General Counsel.

(2) The contracting officer shall coordinate proposed advance payment authorizations with the Accounting Division.

3532.407 Interest.

(d) The Procurement Executive is authorized to approve advance payments without interest.

Subpart 3532.6—Contract Debts

3532.600 Scope of subpart.

This subpart assigns responsibilities and provides procedures for the collection of contract debts, including collection of debts under contracts for the transportation of household goods.

3532.601 Definition.

Responsible official, as used in this subpart, means the contracting officer.

3532.602 General.

In addition to the examples cited in FAR 32.602, contract debts may include those arising from claims under contracts for the transportation of household goods.

3532.603 Applicability.

When the Commission withholds payments due a contractor to satisfy a contractor's debt to the Government, the Debt Collection Act of 1982 and FAR subpart 32.6 apply. As a claim arising under a Government contract, any offset is governed by the Contract Disputes Act of 1979.

3532.608 Negotiation of contract debts.**3532.608-70 Procedures.**

The Commission shall adhere to the following procedures prior to withholding a payment due a contractor to satisfy a debt owed by the contractor.

(a) The Commission shall use all proper means available for collecting a contract debt as rapidly as possible. This includes direct communication to obtain full payment or to negotiate an appropriate settlement.

(b) If the contractor fails to respond expeditiously and in good faith to contacts from the contracting officer, and if justifiable under the contract, the contracting officer shall promptly make a unilateral determination of the amount the contractor owes the Commission. The unilateral debt determination is made when neither payment nor a settlement has been reached. The unilateral debt determination is issued to the contractor by the contracting officer as a final decision under the Contract Disputes Act.

(c) A demand for payment of the contract debt shall be made contemporaneously with the contracting officer's issuance of the unilateral debt determination to the contractor.

3532.610 Demand for payment of contract debt.

(b) Demands for payment shall include, in addition to those items listed in FAR 32.610(b), the following:

(1) The offer of an opportunity to inspect and copy the records of the Commission related to the debt, 31 U.S.C. 3716(a)(2).

(2) The offer of an opportunity of a review of the Commission's decision relating to the debt, 31 U.S.C. 3716(3).

(3) The offer of an opportunity to enter into an agreement with the Commission to repay the amount of the debt.

(c) With respect to contracts for the transportation of household goods, claims by employees and, in turn, by the Commission, must be processed in a timely manner. The usual commercial terms for bills of lading require that any claim be filed against the contractor within nine months of shipment delivery. Government bills of lading are subject to these same rules and

conditions. FAR clause 52.247-23, which is included in contracts for the transportation of household goods, specifies that the contractors will be notified of any damages within a maximum of 45 days from date of delivery.

Subpart 3532.7—Contract Funding**3532.705 Contract clauses.****3532.705-1 Clauses for contracting in advance of funds.**

In lieu of either of the clauses prescribed at FAR 32.705-1(a) and (b), the contracting officer may insert the clause at 3552.232-71, Availability of Funds, in solicitations and contracts—

(a) That are to be awarded in one fiscal year with performance to begin in the following fiscal year, or

(b) That are to extend into the following fiscal year, or

(c) In situations when the circumstances in paragraphs (a) and (b) of this subsection both apply.

Subpart 3532.8—Assignment of Claims**3532.802 Conditions.**

(b) Panamanian firms may assign contracts to a local bank in accordance with recognized local banking practice.

3532.806 Contract clause.

(a) In addition to the clauses prescribed in FAR 32.806, the contracting officer may insert the clause at 3552.232-72, Presentation of Statement of Release from Claims, in solicitations and contracts when appropriate, unless the contract will prohibit the assignment of claims.

Subpart 3532.9—Prompt Payment**3532.901 Applicability.**

In consonance with subpart 3570.1, Panamanian Preference, the Administrator has determined, pursuant to FAR 32.904, to extend coverage of the interest penalty provisions of FAR subpart 32.9 to contracts awarded to Commission vendors located in the Republic of Panama.